

1 Qiana Washington, Esq., SBN# 235028
2 WASHINGTON & ASSOCIATES
3 1470 Maria Lane, Suite 240
4 Walnut Creek, California 94596
5 Telephone: (925) 278-1791
6 Facsimile: (925) 287-6431
7 Email: qwashing@thebestonyourside.com

8 Attorney for Plaintiff JEARNHAMEL FANARO

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

10 JEARNHAMEL FANARO,

11 Plaintiff,

12 vs.

13 COUNTY OF CONTRA COSTA, CONTRA
14 COSTA COUNTY SHERIFF'S OFFICE,
15 DAVID O. LIVINGSTON, FRANCISCO
16 RAMIREZ, THOMAS LEON, FRANCISCO
17 VARGAS, ANTONIO ROSAS, OMAR
18 DELEON, DOES 3-50 INCLUSIVE

19 Defendant.

20 Case No.: 3:19-cv-03247-WHO

21 FIRST AMENDED COMPLAINT FOR
22 VIOLATION OF CIVIL AND
23 CONSTITUTIONAL RIGHTS
24 SUBSTITUTING DOES 1-2 FOR
25 DEFENDANTS ROSAS AND DELEON

26 DEMAND FOR JURY TRIAL ¹

27 **Date:** October 8, 2019

28 **Time:**

Department:

Judge: Hon. William H. Orrick, Presiding

Date Action Filed: June 10, 2019

Trial Date: None Assigned

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JURISDICTION AND VENUE

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1. This Court has the jurisdiction over the claims asserted herein pursuant to 28
2 U.S.C. §1331 (in that they arise under the United States Constitution); and 28 U.S.C. § 1343
3 (a)(3) (in that the actions is brought to address deprivations, under color of state authority, of
4 rights, privileges, and immunities secured by the United States Constitutions). This Court has
5 supplemental jurisdiction of the state law claims under 28 U.S.C. § 1337.
6

7. Venue is proper in the United State District Court for the Northern District of
8 California pursuant to 28 U.S.C. §1331(b) because the Defendants are located in the Northern
9 District of California and because many of the acts and/or omissions described herein occurred
10 in the Northern District of California.
11

INTRAJURISDICTIONAL ASSIGNMENT

13. Interjurisdictional district venue is proper in the San Francisco Division of the
14 Northern District of California pursuant to Civil L.R. 3-2(d) because the claims asserted herein
15 arise from acts and/or omissions which occurred in the County of Contra Costa, California.
16

17. Plaintiff JEARHAMEL FANARO filed a government claim with the COUNTY
18 OF CONTRA COSTA regarding the claims asserted herein, on May 15, 2018. The claim was
19 stamped received and rejected by operation of law on November 14, 2018. *See* CAL. GOV. CODE
20 § 912.4(c). Defendant COUNTY OF CONTRA COSTA mailed the rejection notice, which was
21 post-marked for December 21, 2018, five weeks later.
22

23. Except as provided in Civil L.R. 3-2(c), all civil actions which arise in the counties of
24 Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, or Sonoma shall be assigned
25 to the San Francisco Division or the Oakland Division.
26

PARTIES

1 6. Plaintiff JEARHAMEL FANARO, a Filipino-American, is a resident of the State
2 of California, County of Contra Costa, and was a convicted inmate at Martinez Detention
3 Facility between approximately May 8, 2018 and August 17, 2018.
4

5 7. Defendant COUNTY OF CONTRA COSTA is a “public entity” within the
6 definition of CAL. GOV. CODE §811.2
7

8 8. Defendant DAVID O. LIVINGSTON is the Sheriff, at all material times herein
9 was the Sheriff, of defendants COUNTY OF CONTRA COSTA and CONTRA COSTA
10 COUNTY SHERIFF’S OFFICE, acting within the scope of that agency or employment and
11 under color of state law. Defendant DAVID O. LIVINGSTON is sued in his individual and
12 official capacity.
13

14 9. Defendant OMAR DELEON was, and at all material times herein, a law
15 enforcement officer employed by Defendants COUNTY OF CONTRA COSTA and CONTRA
16 COSTA COUNTY SHERIFF’S OFFICE, acting within the scope of that agency or employment
17 and under color of state law. Defendant OMAR DELEON is sued in his individual and official
18 capacity.
19

20 10. Defendant ANTONIO ROSAS was, and at all material times herein, a law
21 enforcement officer employed by Defendants COUNTY OF CONTRA COSTA and CONTRA
22 COSTA COUNTY SHERIFF’S OFFICE, acting within the scope of that agency or employment
23 and under color of state law. Defendant ANTONIO ROSAS is sued in his individual and
24 official capacity.
25

26 11. Defendant DOE 3 was, and at all material times herein, a law enforcement
27 officer employed by Defendants COUNTY OF CONTRA COSTA and CONTRA COSTA
28 COUNTY SHERIFF’S OFFICE, acting within the scope of that agency or employment and
under color of state law. Defendant DOE 3 is sued in his individual and official capacity.
29

1 12. Defendant DOE 4 was, and at all material times herein, a law enforcement
2 officer employed by Defendants COUNTY OF CONTRA COSTA and CONTRA COSTA
3 COUNTY SHERIFF'S OFFICE, acting within the scope of that agency or employment and
4 under color of state law. Defendant DOE 4 is sued in his individual and official capacity.
5

6 13. Defendant FRANCISCO RAMIREZ is an inmate at Contra Costa County Jail,
7 Martinez Detention Facility, and was a participating actor in the battery.
8

9 14. Defendant THOMAS LEON was an inmate at Contra Costa County Jail,
10 Martinez Detention Facility and was participating actor in the battery.
11

12 15. Defendant FRANCISCO VARGAS was an inmate at Contra Costa County Jail,
13 Martinez Detention Facility and was participating actor in the battery.
14

15 16. Defendant DOE 5 is an inmate at Contra Costa County Jail, Martinez Detention
16 Facility and was participating actor in the battery.
17

18 17. Defendant DOE 6 is an inmate at Contra Costa County Jail, Martinez Detention
19 Facility and was participating actor in the battery.
20

21 18. Plaintiff JEARNHAMEL FANARO is ignorant of the true names or capacities of
22 the defendants sued here under the fictitious names DOES 7-50, inclusive. Plaintiff is informed
23 and believes that each of the DOE defendants was responsible in some manner for the
24 occurrences and injuries alleged in this complaint.
25

GENERAL ALLEGATIONS

26 19. At all times relevant herein, all wrongful acts described were performed under
27 color of state law and/or in concert with or on behalf of those acting under the color of state law.
28

29 20. All allegations made herein are based on information and belief.
30

1 21. Plaintiff JEARHAMEL FANARO was in the custody of Defendants COUNTY
2 OF CONTRA COSTA and CONTRA COSTA COUNTY SHERIFF'S OFFICE from May 8,
3 2018 to approximately August 17, 2018.
4

5 22. Defendant CONTRA COSTA COUNTY SHERIFF'S OFFICE operates and
6 staffs three detention facilities located in the geographical area encompassed in Defendant
7 COUNTY OF CONTRA COSTA. Martinez Detention Facility is the maximum-security facility
8 and primary point of intake for all arrestees booked in Contra Costa County. The Martinez
9 Detention Facility receives its oversite and funding from Defendant COUNTY OF CONTRA
10 COSTA.
11

12 23. Defendant CONTRA COSTA COUNTY SHERIFF'S OFFICE divides the
13 Martinez Detention Facility into Modules. The Classification Unit of Defendant CONTRA
14 COSTA COUNTY SHERIFF'S OFFICE determines the appropriate housing assignments using
15 interviews and historical records. The inmates are asked questions about race, residence, gang
16 affiliation and association during the classification interview. This is documented in each
17 inmate's file. Disciplinary records and reports are kept for defendant CONTRA COSTA
18 COUNTY SHERIFF'S OFFICE to review in the classification process.
19

20 24. During Plaintiff JEARHAMEL FANARO's incarceration at Contra Costa
21 County Jail, Martinez Detention Facility, he was housed in A Module, also known as the gang
22 unit.
23

24 25. The inmates housed in A Module consists of the general population and of
25 Norteño criminal street gang affiliates/associates/members. The Norteño criminal street gang is
26 a violent criminal organization whose primary activities include murder, attempted murder, and
27 violent assaults. The majority of its members are of Latin-American descent.
28

1 26. Defendant CONTRA COSTA COUNTY SHERIFF'S OFFICE receives
2 extensive and exhaustive information about the Norteño criminal street gang by observing
3 inmate members, associates and affiliates, classification interviews, monitoring telephone calls,
4 reviewing police and jail incident reports, searching jail cells, reading inmate mail, and
5 "debriefing" interviews.

6
7 27. Defendant CONTRA COSTA COUNTY SHERIFF'S OFFICE requires all
8 inmates desiring to withdraw from the gang to submit to debriefing interviews. During
9 debriefing interviews, Defendant CONTRA COSTA COUNTY SHERIFF'S OFFICE requires
10 the inmates to tell them all the information they know about the gang. Only inmates that debrief
11 are allowed to withdraw from the gang and thus be reclassified to another module.

12
13 28. Defendant CONTRA COSTA COUNTY SHERIFF'S OFFICE has a training
14 unit that instructs its employee deputies working in the jails and outside police agencies on
15 Norteño criminal street gang activity. Contra Costa County Sheriff Deputies teach the trainings.
16 Topics included in the trainings are the classification process, gang behavior in the Martinez
17 Detention Facility, recognition of gang tattoos, recognition of gang clothing, and recognition of
18 numbers, signs, and symbols associated with gangs. All trainings are specific to each gang (e.g.
19 the Norteño criminal street gang).

20
21 29. Defendant CONTRA COSTA COUNTY SHERIFF'S OFFICE supports the
22 power structure within the gang by housing the Authority in Charge (AOC), "shot callers" of
23 the Norteño criminal street gang, in a designated cell. Having the Authority in Charge housed in
24 the same cell allows gang activity to flourish inside the Martinez Detention Facility.

25
26 30. Defendant CONTRA COSTA COUNTY SHERIFF'S OFFICE also supports the
27 power structure within the gang by turning each inmate assigned to A Module over to two
28 Norteños members who act as "ambassadors." These "ambassador" Norteño inmates greet and

1 escort each new inmate throughout A Module and are allowed to orient the inmate to the gang's
2 policies and procedures within the Module. Defendant CONTRA COSTA COUNTY
3 SHERIFF'S OFFICE sanctions a hazing procedure they call a "freeze." During the "freeze"
4 new inmates are deprived of privileges normally afforded to all inmates such as "commissary
5 shoes" and television viewing time. The new inmate is brought in with jail issued sandals and
6 later provided with "commissary issued" shoes by the Norteño criminal street gang
7 affiliates/associates/members. The new inmate could be without commissary shoes for weeks.
8 When the inmate is given shoes and permitted to watch television, this normally means the gang
9 has accepted them.

10 31. Defendant CONTRA COSTA COUNTY SHERIFF'S OFFICE and Defendants
11 OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4 colluded with the Norteño criminal
12 street gang by allowing formal Norteño criminal street gang activity to occur within the
13 Martinez Detention Facility. This occurred when the aforementioned defendants knowingly
14 allowed the freeze to take place, handed newly housed inmates over to Norteño criminal street
15 gang member inmate "ambassadors," informed Norteño criminal street gang member inmates of
16 gaps in security, allowed them to possess contraband, permitted them to handle conflicts
17 violently amongst themselves and without police intervention and, covered up gang activity.

18 32. Employees of Defendant CONTRA COSTA COUNTY SHERIFF'S OFFICE
19 previously complained to Defendants CONTRA COSTA COUNTY SHERIFF'S OFFICE and
20 DAVID O. LIVINGSTON about insufficient staffing in A Module. The sheriff deputy to inmate
21 ratio in Martinez Detention Facility is two (2) deputies to twenty-five (25) inmates when a
22 portion of inmates are out of their cells during "free time." Employees of Defendant CONTRA
23 COSTA COUNTY SHERIFF'S OFFICE also complained that the A module courtyard's
24 camera does not rotate and has large blind spots. The combination of a lack of sufficient staffing
25

1 and the blind spots in the cameras resulted in safety issues for Plaintiff JEARMEL
2 FANARO and other inmates and proximately caused physical attacks.
3

4 33. On May 8, 2018, Defendants CONTRA COSTA COUNTY SHERIFF'S
5 OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS, and DOES 3 to 4
6 knowingly handed over Plaintiff JEARMEL FANARO to two Norteño ranking members
7 with the intention of subjecting him to a "freeze."
8

9 34. Inmate cells are equipped with call buttons. These call buttons are used to gain
10 the attention of the sheriff deputies working in the modules. These buttons are generally pressed
11 when there is a medical emergency or when the inmate wants to "debrief." When the call button
12 is pushed there is an alert system at the deputy's desk. This notifies the deputies that a button in
13 a cell has been pushed.
14

15 35. Defendants CONTRA COSTA COUNTY SHERIFFS OFFICE, OMAR
16 DELEON, ANTONIO ROSAS and DOES 3 to 4 abdicate security responsibilities to the
17 Norteño criminal street gang by having inmate gang members respond to the cells when call
18 buttons are pushed. This is in violation of their fiduciary duty that is owed to all inmates in
19 Martinez Detention Facility, including Plaintiff JEARMEL FANARO.
20

21 36. Plaintiff JEARMEL FANARO pressed the call button in his cell to gain the
22 Defendants DOES 3 to 4's attention. Plaintiff JEARMEL FANARO's intention was to
23 inform Defendants CONTRA COSTA COUNTY SHERIFF'S OFFICE and DOES 3 to 4 of his
24 desire to withdraw from the Norteño criminal street gang.
25

26 37. Instead of Defendants DOES 3 to 4 responding to the call button, they permitted
27 Norteño criminal street gang member inmates to enter Plaintiff JEARMEL FANARO's cell.
28

38. The Norteño criminal street gang member inmates entered Plaintiff
JEARMEL FANARO'S cell and shut off the call button. They then questioned Plaintiff

1 JEARHAMEL FANARO regarding the reason he pressed the call button in his cell. To avoid a
 2 dangerous confrontation, Plaintiff JEARHAMEL FANARO claimed he was ill.
 3

4 39. Defendants DOES 3 to 4 never entered Plaintiff JEARHAMEL FANARO's cell
 5 nor followed up with him to determine the reason Plaintiff JEARHAMEL FANARO pressed
 6 the call button.

7 40. The Norteño criminal street gang member inmates then forced Plaintiff
 8 JEARHAMEL FANARO to be "escorted" by one of the gang affiliates/associates/members at
 9 all times so that he never had the chance to explicitly inform Defendant CONTRA COSTA
 10 COUNTY SHERIFF'S OFFICE his intention to withdraw.
 11

12 41. Based on the Norteño criminal street gang member inmate's behavior, however,
 13 the Defendants DOES 3 to 4 knew from their trainings with Defendant CONTRA COSTA
 14 COUNTY SHERIFF'S OFFICE and their professional experience, the Norteño criminal street
 15 gang member inmates were planning to attack Plaintiff JEARHAMEL FANARO. Defendants
 16 DOES 3 to 4 should have taken action to protect Plaintiff JEARHAMEL FANARO, based on
 17 their knowledge and observations that an attack was imminent, but failed to do so.
 18

19 42. Defendants OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4 did nothing
 20 to protect Plaintiff JEARHAMEL FANARO because he is not afforded the same level of
 21 protection as the Latino inmates in A Module. Plaintiff JEARHAMEL FANARO is a Filipino-
 22 American who was housed in a primarily Latin-American module of Martinez Detention
 23 Facility.
 24

25 43. On May 15, 2018, Defendant THOMAS LEON handed Plaintiff JEARHAMEL
 26 FANARO a pair of shoes falsely signaling the end of the "freeze." Defendant THOMAS LEON
 27 then told Plaintiff JEARHAMEL FANARO another inmate wanted to speak to him in the A
 28 Module courtyard.

1 44. The Norteño criminal street gang member inmates chose to lure Plaintiff
2 JEARHAMEL FANARO to the A Module courtyard because Defendants OMAR DELEON,
3 ANTONIO ROSAS and DOES 3 to 4 informed the inmates that the camera outside was a fixed
4 static view with large blind spots.
5

6 45. Another reason the Norteño criminal street gang member inmates chose to lure
7 Plaintiff JEARHAMEL FANARO to the A Module Courtyard is, the sheriff deputies had not
8 been completing their security patrol “rounds” on the roof top area. Defendant CONTRA
9 COSTA COUNTY SHERIFF’S OFFICE has a policy to patrol the roof top area to monitor
10 inmate activity in the outdoor courtyards.
11

12 46. In the A Module courtyard Defendants FRANCISCO RAMIREZ, THOMAS
13 LEON, and FRANCISCO VARGAS attacked Plaintiff JEARHAMEL FANARO. Plaintiff
14 JEARHAMEL FANARO attempted to leave the courtyard, but due to his injuries, was
15 temporarily blinded and fell to the ground.
16

17 47. When Plaintiff JEARHAMEL FANARO stood up and attempted to walk inside,
18 Defendants FRANCISCO RAMIREZ, THOMAS LEON, and FRANCISCO VARGAS attacked
19 him again. During this second attack, Plaintiff JEARHAMEL FANARO attempted to defend
20 himself, so Defendants DOES 5 to 6 joined the attack. One placed Plaintiff JEARHAMEL
21 FANARO in a “chokehold” and the four others continued to beat JEARHAMEL FANARO.
22 When the attack was over Plaintiff JEARHAMEL FANARO was told to “rollover,” in which he
23 interpreted they were going to kill him. However, Defendants FRANCISCO RAMIREZ,
24 THOMAS LEON, FRANCISCO VARGAS and DOES 5 to 6 had returned inside A Module.
25

26 48. The attack on Plaintiff JEARHAMEL FANARO lasted fifteen (15) to twenty-
27 five (25) minutes and left a ten (10) feet long by six (6) feet wide blood stain on the ground.
28 This time frame was over the course of two separate “free time” periods. Even though

1 Defendants FRANCISCO RAMIREZ, THOMAS LEON, and FRANCISCO VARGAS and
2 DOES 4 to 5 were supposed to return to their cells when their “free time” ended, Defendants
3 OMAR DELEON and ANTONIO ROSAS allowed them to stay in the courtyard and continue
4 attacking Plaintiff JEARHAMEL FANARO.
5

6 49. The attack occurred in the A Module courtyard camera blind spot. Defendants
7 CONTRA COSTA COUNTY SHERIFF’S OFFICE and OMAR DELEON and ANTONIO
8 ROSAS did not intervene during the fifteen (15) to twenty-five (25) minute attack on Plaintiff
9 JEARHAMEL FANARO.
10

11 50. Further, there is a central camera monitoring system at the Martinez Detention
12 Facility and due to the blind spots in the courtyard, no one in the control center could see the
13 attack taking place and thus were unable to send additional sheriff’s deputies to intervene. Had
14 the control center seen the attack and sent additional deputies to intervene, Plaintiff
15 JEARHAMEL FANARO would not have been as seriously injured as he was. Defendants
16 FRANCISCO RAMIREZ, THOMAS LEON, FRANCISCO VARGAS, and DOES 4 to 5
17 exploited the information they received from Defendants OMAR DELEON, ANTONIO
18 ROSAS and DOES 3 to 4 about this security gap to execute the attack on Plaintiff
19 JEARHAMEL FANARO without the intervention of other sheriff’s deputies.
20

21 51. Defendants OMAR DELEON and ANTONIO ROSAS knew the attack was
22 occurring and had an explicit or tacit agreement with Norteño criminal street gang members
23 Defendants FRANCISCO RAMIREZ, THOMAS LEON, and FRANCISCO VARGAS and
24 DOES 4 to 5 to allow the attack to occur, uninterrupted.
25

26 52. Norteño criminal street gang member inmates signaled Defendants OMAR
27 DELEON and ANTONIO ROSAS by their words, by making eye contact with them, and by
28 openly guarding Plaintiff JEARHAMEL FANARO. Further, Defendants OMAR DELEON and

1 ANTONIO ROSAS saw the other inmate's watching the attack in A Module courtyard and
 2 Defendants OMAR DELEON and ANTONIO ROSAS had a partial view of the courtyard from
 3 the deputies' desk. Finally, OMAR DELEON and ANTONIO ROSAS heard the attack and
 4 Plaintiff JEARHAMEL FANARO's screams, cries, and grunts. Defendants OMAR DELEON
 5 and ANTONIO ROSAS did nothing to stop the attack. Defendants OMAR DELEON and
 6 ANTONIO ROSAS were complicit in the attack by acting as a "look-out" and keeping
 7 Defendants FRANCISCO RAMIREZ, THOMAS LEON, FRANCISCO VARGAS, and DOES
 8 4 to 5 from being caught in the act of committing the attack.

10 53. Plaintiff JEARHAMEL FANARO stumbled inside to the deputies' desk after
 11 Defendants FRANCISCO RAMIREZ, THOMAS LEON, FRANCISCO VARGAS, and DOES
 12 4 to 5 reentered A Module. Defendants OMAR DELEON and ANTONIO ROSAS did not aide
 13 Plaintiff JEARHAMEL FANARO until he asked for help. Further, Defendants OMAR
 14 DELEON and ANTONIO ROSAS did not discipline Defendants FRANCISCO RAMIREZ,
 15 THOMAS LEON, FRANCISCO VARGAS, and DOES 4 to 5 for being out of their cells.
 16 Defendants FRANCISCO RAMIREZ, THOMAS LEON, FRANCISCO VARGAS, and DOES
 17 4 to 5 should have been disciplined because they violated the jail rules for being out of their
 18 cells when their "free time" had ended.

21 54. After Plaintiff JEARHAMEL FANARO asked for help, Defendant CONTRA
 22 COSTA SHERIFF'S OFFICE called an ambulance and Plaintiff JEARHAMEL FANARO was
 23 transported to John Muir Medical Center.

25 55. At John Muir Medical Center it was determined that as a result of the attack,
 26 Plaintiff JEARHAMEL FANARO suffered from multiple broken bones as well as other
 27 injuries.

28 **MUNICIPAL AND SUPERVISORY ALLEGATIONS**

1 56. All allegations made herein are based on information and belief.

2 57. Defendant DAVID O. LIVINGSTON, acting as Sheriff, is the final policy-
3 making authority for Defendants COUNTY OF CONTRA COSTA and CONTRA COSTA
4 COUNTY SHERIFF'S OFFICE as it relates to the training, supervision, and discipline of
5 sheriff's deputies employed at Contra Costa County Jail, Martinez Detention Facility, and
6 acting under his command. *See CAL. CONST. ART. XI § 1(b).*

7 58. As final policy maker, Defendant DAVID O. LIVINGSTON created safety and
8 security policies for the Martinez Detention Facility. These policies include how the deputies
9 are assigned to modules, how the deputies are to handle violent incidents between , what type of
10 cameras are to be used in the jail, where the cameras are to be placed, how many deputies per
11 inmate, inmate privileges, and rules regarding discipline for rule violations.

12 59. Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY
13 SHERIFF'S OFFICE, and DAVID O. LIVINGSTON knew that the subordinate employees
14 under their command, including Defendants OMAR DELEON, ANTONTIO ROSAS and
15 DOES 3 to 4, were inadequately trained, supervised, or disciplined resulting from their
16 inadequate policies, customs, or practices concerning unreasonable negligence and lack of
17 protection of the inmates, including Plaintiff JEARNHAMEL FANARO.

18 60. Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY
19 SHERIFF'S OFFICE, and DAVID O. LIVINGSTON maintained policies, customs, or practices
20 deliberately indifferent to or acquiescing to, or failed to maintain polices, customs, or practices
21 when it was obvious they were needed to prevent the negligence and lack of protection of the
22 inmates at the Martinez Detention Facility. The presence of these policies, customs, or practices
23 is confirmed by and consistent with the negligence and lack of protection of JEARNHAMEL
24 FANARO by Defendants OMAR DELEON and ANTONIO ROSAS.

1 61. Defendant DAVID O. LIVINGSTON knew there are/has been a group of sheriff
2 deputies employed by Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA
3 COUNTY SHERIFF'S OFFICE, and DAVID O. LIVINGSTON working at Martinez Detention
4 Facility that conspired with the inmates to permit them to "control" A Module which put
5 Plaintiff JEARHAMEL FANARO as well as other inmates in harm's way. With this
6 knowledge, Defendant DAVID O. LIVINGSTON allowed the deputies to continue working and
7 did not relieve them of their fiduciary posts.

8 62. Multiple Sheriff Deputies have made complaints to Defendants CONTRA
9 COSTA COUNTY SHERIFF'S OFFICE, and DAVID O. LIVINGSTON, regarding the limited
10 camera views in A Module Courtyard and a lack of staffing. The Defendants CONTRA COSTA
11 COUNTY SHERIFF'S OFFICE, and DAVID O. LIVINGSTON did nothing to fix either of
12 these problems which could have been done by securing a budget necessary for adequate
13 staffing and equipment. Failure to fix the problems resulted in the inmates exploiting the gaps in
14 security which put Sheriff Deputies working at the Martinez Detention Facility, and the
15 inmates, including Plaintiff JEARHAMEL FANARO, at a serious risk of harm.

16 63. Additional evidence and information related to Defendants COUNTY OF
17 CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, and DAVID O.
18 LIVINGSTON's policies, customs, or practices will be sought and obtained during the course
19 of this litigation. These documents have previously been requested on four separate occasions
20 through the California Public Records Act, but Defendants COUNTY OF CONTRA COSTA,
21 CONTRA COSTA COUNTY SHERIFF'S OFFICE, and DAVID O. LIVINGSTON denied the
22 requests.

23 64. Defendants DAVID O. LIVINGSTON, COUNTY OF CONTRA COSTA, and
24 CONTRA COSTA COUNTY SHERIFF'S OFFICE know there is an epidemic of violent
25

attacks, yet the deputies have not been disciplined for failure to enforce inmate rules and there has not been any attempt to resolve this.

65. Defendants DAVID O. LIVINGSTON, COUNTY OF CONTRA COSTA, and CONTRA COSTA COUNTY SHERIFF'S OFFICE knew of violent gang behavior in Martinez Detention Facility, yet they created a policy of housing gang members in a manner that put inmates at risk of physical attack, whether those inmates were gang members in lower standing, gang dropouts, or general population.

66. Defendant DAVID O. LIVINGSTON knew everything alleged in this complaint from reports and briefings he received in person, over email, and/or oral reports.

67. Although access to the existence or absence of internal policies customs, or practices, prior to discovery, is necessarily limited, on information and belief, Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, and DAVID O. LIVINGSTON have access and/or knowledge of past events and of statements of internal policies, customs or practices at issue and, in some respects, may be in sole possession of evidence and facts needed to support or refute these claims.

EQUITABLE ALLEGATIONS

68. On information and belief, unless enjoined from federal and state constitutional provisions safeguarding the conditions of inmates' safety and well-being at the Contra Costa County Jail, Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4, disregard of those constitutional provisions will continue, and more inmates will likely be damaged just as Plaintiff JEARNEL FANARO was damaged.

FIRST CLAIM

Special Relationships

(Fourteenth Amendment to the U.S. Constitution; 42 U.S.C. § 1983)

69. The First Claim is asserted by Plaintiff JEARNHAMEL FANARO, on behalf of himself, against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 and 4.

70. Plaintiff JEARHAMEL FANARO re-alleges and incorporates the allegations of the preceding paragraphs 1 to 68, to the extent relevant, as if fully set forth in this claim.

71. Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS, and DOES 3 to 4, acting under color of state law and as policy-making authorities, and while maintaining a custodial relationship over Plaintiff JEARNHAMEL FANARO, failed to adequately provide for his safety and well-being by maintaining policies, customs, or practices when it was obvious that they were needed to prevent the severe attack, and were the moving force behind Defendant DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and, DOES 3 to 4's violations of Plaintiff JEARNHAMEL FANARO's rights secured by the Fourteenth Amendment of the United States Constitution.

72. Defendants DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4's actions and inactions were motivated by evil motive or intent, involved reckless or callous indifference to Plaintiff JEARHAMEL FANARO's rights secured by the Fourteenth Amendment of the U.S. Constitution, or were wantonly or oppressively done.

73. As a direct and proximate result of Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4 action and inactions, Plaintiff JEARHAMEL FANARO suffered injuries entitling him to receive compensatory damages.

1 against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY
2 SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and
3 DOES 3 to 4, declaratory and injunctive relief against Defendants COUNTY OF CONTRA
4 COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON,
5 OMAR DELEON, ANTONIO ROSAS, and DOES 3 to 4, and punitive damages against
6 Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S
7 OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS, and DOES 3 to 4.

8
9 WHEREFORE, Plaintiff JEARNHAMEL FANARO prays for relief as hereunder appears
10

11 **SECOND CLAIM**

12 **Unlawful Official Policy, Practice, or Custom**

13 **(Eighth Amendment to the U.S. Constitution; 42 U.S.C. § 1983)**

14 74. The Second Claim is asserted by Plaintiff JEARNHAMEL FANARO against
15 Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S
16 OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS, and DOES 3 to 4.

17 75. Plaintiff JEARNHAMEL FANARO re-alleges and incorporates the allegations of
18 the preceding paragraphs 1 to 68, to the extent relevant as if fully set forth in this Claim.

19 76. Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY
20 SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS, and
21 DOES 3 to 4 acting or purporting to act in the performance of their official duties under color of
22 state law deprived Plaintiff JEARNHAMEL FANARO of his Eighth Amendment Rights of the
23 United States Constitution, the right to be free from cruel and unusual punishment.

24 77. Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY
25 SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and
26 DOES 3 to 4, acted pursuant to an expressly adopted official policy or a widespread or

longstanding custom and as a result, the Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4 deprived Plaintiff JEARNHAMEL FANARO's rights which ultimately caused Plaintiff JEARNHAMEL FANARO's injuries.

78. As a direct and proximate result of Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4 action and inactions, Plaintiff JEARHAMEL FANARO suffered injuries entitling him to receive compensatory damages against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS, and DOES 3 to 4, declaratory and injunctive relief against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4, and punitive damages against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4.

WHEREFORE, Plaintiff JEARHAMEL FANARO prays for relief as hereunder appears.

THIRD CLAIM

Act of Final Policy Maker

(Eighth Amendment to the U.S. Constitution; 42 U.S.C. § 1983)

79. The Third Claim is asserted by Plaintiff JEARHAMEL FANARO, on behalf of himself, against Defendants, DAVID O. LIVINGSTON and CONTRA COSTA COUNTY SHERIFF'S OFFICE.

80. Plaintiff JEARNHAMEL FANARO re-alleges and incorporates the allegations of the preceding paragraphs 1 to 68, to the extent relevant, as if fully set forth in this claim.

1 81. DAVID O. LIVINGSTON and CONTRA COSTA COUNTY SHERIFF'S
2 OFFICE acted under the color of state law which deprived Plaintiff JEARMEL FANARO of
3 his particular rights under the United States Constitution.
4

5 82. DAVID O. LIVINGSTON and CONTRA COSTA COUNTY SHERIFF'S
6 OFFICE had final policymaking authority and acted as the final policymaker for Defendant
7 COUNTY OF CONTRA COSTA and Defendant DAVID O. LIVINGSTON acts were so
8 closely related to Plaintiff JEARMEL FANARO's deprivation of rights which was the
9 ultimate cause of his injuries.
10

11 83. As a direct and proximate result of Defendants, CONTRA COSTA COUNTY
12 SHERIFF'S OFFICE and DAVID O. LIVINGSTON's actions and inactions, Plaintiff
13 JEARMEL FANARO suffered injuries entitling him to receive compensatory damages
14 against Defendants CONTRA COSTA COUNTY SHERIFF'S OFFICE and DAVID O.
15 LIVINGSTON, declaratory and injunctive relief against Defendants CONTRA COSTA
16 COUNTY SHERIFF'S OFFICE, and DAVID O. LIVINGSTON and punitive damages against
17 Defendants CONTRA COSTA COUNTY SHERIFF'S OFFICE and DAVID O.
18 LIVINGSTON.
19

20 WHEREFORE, Plaintiff JEARMEL FANARO prays for relief as hereunder appears.
21

FOURTH CLAIM

Policy that fails to train

22 **(Eighth Amendment to the U.S. Constitution; 42 U.S.C. § 1983)**
23

24 84. The Fourth Claim is asserted by Plaintiff JEARMEL FANARO, on behalf of
25 himself, against Defendants, DAVID O. LIVINGSTON, CONTRA COSTA COUNTY
26 SHERIFF'S OFFICE, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4.
27
28

1 85. Plaintiff JEARTHAMEL FANARO re-alleges and incorporates the allegations of
 2 the preceding paragraphs 1 to 68, to the extent relevant, as if fully set forth in this claim.
 3

4 86. The failure to act of Defendants OMAR DELEON, ANTONIO ROSAS and
 5 DOES 3 to 4 deprived Plaintiff JEARTHAMEL FANARO of his United States Constitutional
 6 rights.
 7

8 87. Defendants OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4 were acting
 9 under the color of state law when they were not adequately trained by Defendants DAVID O.
 10 LIVINGSTON, CONTRA COSTA COUNTY SHERIFF'S OFFICE to handle usual and
 11 reoccurring situations, like fights between inmates.
 12

13 88. Defendants DAVID O. LIVINGSTON, CONTRA COSTA COUNTY
 14 SHERIFF'S OFFICE were deliberately indifferent to the obvious consequences of its failure to
 15 train its Sheriff Deputies adequately. This failure to train caused a deprivation of JEARTHAMEL
 16 FANARO'S rights and was the ultimate cause of JEARTHAMEL FANARO'S injuries.
 17

18 89. As a direct and proximate result of Defendants CONTRA COSTA COUNTY
 19 SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and
 20 DOES 3 to 4's actions and inactions, Plaintiff JEARTHAMEL FANARO suffered injuries
 21 entitling him to receive compensatory damages against Defendants CONTRA COSTA
 22 COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO
 23 ROSAS and DOES 3 to 4, declaratory and injunctive relief against Defendants CONTRA
 24 COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON,
 25 ANTONIO ROSAS and DOES 3 to 4, and punitive damages against Defendants CONTRA
 26 COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON,
 27 ANTONIO ROSAS and DOES 3 to 4.
 28

WHEREFORE, Plaintiff JEARTHAMEL FANARO prays for relief as hereunder appears.

FIFTH CLAIM

State-Created Danger

(Fourteenth Amendment to the U.S. Constitution; 42 U.S.C. § 1983)

90. The Fifth Claim is asserted by Plaintiff JEARNHAMEL FANARO, on behalf of himself, against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, and DAVID O. LIVINGSTON.

91. Plaintiff JEARNHAMEL FANARO re-alleges and incorporates the allegations of the preceding paragraphs 1 to 68, to the extent relevant, as if fully set forth in this claim.

92. Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, and DAVID O. LIVINGSTON, acting under the color of law and as policy-making authorities, affirmatively placed Plaintiff JEARNHAMEL FANARO in a position of danger by maintaining policies, customs, or practices permitting deliberate indifference to, or failed to maintain policies customs, or practices when it was obvious that they were needed, to prevent the brutal attack Plaintiff JEARNHAMEL FANARO endured at the hands of other inmates without any interference, and were the moving force behind Defendants OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4's violations of Plaintiff JEARNHAMEL FANARO's rights secured by Art. I, §7 of the California Constitution.

93. Defendants COUNTY OF CONTRA COSTA and CONTRA COSTA COUNTY SHERIFF'S OFFICE are indirectly and vicariously liable, through the principles of *respondeat superior*, for injuries proximately caused by acts or omissions of their employees acting within the scope of their employment.

94. Defendant DAVID O. LIVINGSTON's actions and inactions constituted oppression and/or malice resulting in great harm to Plaintiff JEARNEL FANARO.

95. As a direct and proximate result of Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, and DAVID O. LIVINGSTON action and inactions, Plaintiff JEARHAMEL FANARO suffered injuries entitling him to receive compensatory damages against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON and OMAR DELEON, ANTONIO ROSAS, declaratory and injunctive relief against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4, and punitive damages against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4.

WHEREFORE, Plaintiff JEARNHAMEL FANARO prays for relief as hereunder appears.

SIXTH CLAIM

Special Relationship

(Article I, § 7 to the California Constitution; CAL. GOV. CODE §§ 815.2(a) & 820(a))

96. The Sixth Claim is asserted by Plaintiff JEARHAMEL FANARO, on behalf of himself, against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4.

97. Plaintiff JEARNHAMEL FANARO re-alleges and incorporates the allegations of the preceding paragraphs 1 to 68, to the extent relevant, as if fully set forth in this claim.

98. Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4, acting under color of state law and as policy-making authorities, and while

1 maintaining a custodial relationship over Plaintiff JEARCHAMEL FANARO, failed to adequately
 2 provide for his safety and well-being by maintaining polices, customs, or practices when it was
 3 obvious they were needed to prevent the severe attack, and were the moving force behind
 4 Defendants DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to
 5 4's violations of Plaintiff JEARCHAMEL FANARO's rights secured by the Fourteenth
 6 Amendment of the United States Constitution.

8 99. Defendants DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and
 9 DOES 3 to 4's actions and inactions were motivated by evil motive or intent, involved reckless
 10 or callous indifference to Plaintiff JEARCHAMEL FANARO's rights secured by the Fourteenth
 11 Amendment of the U.S. Constitution, or were wantonly or oppressively done.

13 100. As a direct and proximate result of Defendants COUNTY OF CONTRA
 14 COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON,
 15 OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4 action and inactions, Plaintiff
 16 JEARCHAMEL FANARO suffered injuries entitling him to receive compensatory damages
 17 against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY
 18 SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and
 19 DOES 3 to 4, declaratory and injunctive relief against Defendants COUNTY OF CONTRA
 20 COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON,
 21 OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4, and punitive damages against
 22 Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S
 23 OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4.

26 WHEREFORE, Plaintiff JEARCHAMEL FANARO prays for relief as hereunder appears

27 **SEVENTH CLAIM**

28 **Unruh Civil Rights Act**

(CAL. CIV. CODE § 51)

101. The Seventh Claim is asserted by Plaintiff JEARHAMEL FANARO, on behalf of himself, against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4.

102. Plaintiff JEARHAMEL FANARO re-alleges and incorporates the allegations of the preceding paragraphs 1 to 68, to the extent relevant, as if fully set forth in this claim.

103. All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

104. Plaintiff JEARHAMEL FANARO is a racial minority, a Filipino-American, and thus a member of a protected class. The Norteño criminal street gang is a primarily a Latin-American organization.

105. Plaintiff JEARNEL FANARO was not afforded equal protection under law as were the other Norteño criminal street gang affiliates/associates/members who were of a different race than him. Thus, he was discriminated against because of his race.

106. As a direct and proximate result of Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS's actions and inactions, Plaintiff JEARHAMEL FANARO suffered injuries entitling him to receive compensatory damages against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4, declaratory and

1 injunctive relief against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA
2 COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO
3 ROSAS and DOES 3 to 4, and punitive damages against Defendants COUNTY OF CONTRA
4 COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON,
5 OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4.
6

7 WHEREFORE, Plaintiff JEARHAMEL FANARO prays for relief as hereunder appears.
8
9

EIGHTH CLAIM

State-Created Danger

(Article I, § 7 to the California Constitution; CAL. GOV. CODE §§ 815.2(a) & 820(a))

107. The Eighth Claim is asserted by Plaintiff JEARHAMEL FANARO, on behalf of
11 himself, against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY
12 SHERIFF'S OFFICE, and DAVID O. LIVINGSTON.

108. Plaintiff JEARHAMEL FANARO re-alleges and incorporates the allegations of
11 the preceding paragraphs 1 to 67, to the extent relevant, as if fully set forth in this claim.

109. Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY
11 SHERIFF'S OFFICE, and DAVID O. LIVINGSTON, acting under the color of law
12 And as policy-making authorities, affirmatively placed Plaintiff JEARHAMEL FANARO in a
13 position of danger by maintaining policies, customs, or practices permitting deliberate
14 indifference, or failure to maintain policies customs, or practices, when it was obvious that they
15 were needed to prevent the brutal attack that Plaintiff JEARHAMEL FANARO endured at the
16 hands of other inmates without any interference, and were the moving force behind Defendants
17 OMAR DELEON, ANTONIO ROSAS's violations of Plaintiff JEARHAMEL FANARO's
18 rights under Art. I, §7 of the California Constitution.

1 110. Defendants COUNTY OF CONTRA COSTA and CONTRA COSTA COUNTY
2 SHERIFF'S OFFICE are indirectly and vicariously liable, through the principles of *respondeat*
3 *superior*, for injuries proximately caused by acts or omissions of their employees acting within
4 the scope of their employment.
5

6 111. Defendant DAVID O. LIVINGSTON's actions and inactions constituted
7 oppression and/or malice resulting in great harm to Plaintiff JEARNHAMEL FANARO.
8

9 112. As a direct and proximate result of Defendants COUNTY OF CONTRA
10 COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, and DAVID O. LIVINGSTON's
11 actions and inactions, Plaintiff JEARNHAMEL FANARO suffered injuries entitling him to
12 receive compensatory damages against Defendants COUNTY OF CONTRA COSTA,
13 CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR
14 DELEON, ANTONIO ROSAS and DOES 3 to 4, declaratory and injunctive relief against
15 Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S
16 OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4,
17 and punitive damages against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA
18 COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO
19 ROSAS and DOES 3 to 4.
20

21 WHEREFORE, Plaintiff JEARNHAMEL FANARO prays for relief as hereunder appears.
22

23 **NINTH CLAIM**

24 **Negligence**

25 **(CAL. GOV. CODE § 820(a))**

26 113. The Ninth Claim is asserted by Plaintiff JEARNHAMEL FANARO, on behalf of
27 himself, against Defendants CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O.
28 LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4.

1 114. Plaintiff JEARMEL FANARO re-alleges and incorporates the allegations of
2 the preceding paragraphs 1 to 68, to the extent relevant, as if fully set forth in this claim.
3

4 115. Defendants CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O.
5 LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4 acting or purporting
6 to act in the performance of their official duties as law enforcement officers, owed Plaintiff
7 JEARMEL FANARO a duty of care and breached that duty.
8

9 116. Defendants CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O.
10 LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4's actions and
11 inactions constituted oppression and/or malice resulting in great harm to Plaintiff
12 JEARMEL FANARO.
13

14 117. As a direct and proximate result of Defendants CONTRA COSTA COUNTY
15 SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and
16 DOES 3 to 4's actions and inactions, Plaintiff JEARMEL FANARO suffered injuries
17 entitling him to receive compensatory and punitive damages against Defendants CONTRA
18 COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON,
19 ANTONIO ROSAS and DOES 3 to 4.
20

21 WHEREFORE, Plaintiff JEARMEL FANARO prays for relief as hereunder appears.
22

TENTH CLAIM

Convicted Prisoner's Claim of Failure to Protect

(Fourteenth Amendment to the U.S. Constitution; 42 U.S.C. § 1983)

25 118. The Tenth Claim is asserted by Plaintiff JEARMEL FANARO against
26 Defendants OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4.
27

28 119. Plaintiff JEARMEL FANARO re-alleges and incorporates the allegations of
the preceding paragraphs 1 to 68, to the extent relevant, as if fully set forth in this claim.
29

1 120. Defendants OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4 made
2 intentional decisions regarding the conditions under which Plaintiff JEARHAMEL FANARO
3 was to be confined and thus put him at substantial risk of harm.
4

5 121. Defendants OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4 did not
6 take reasonable available measures to abate that risk which allowed Defendants FRANCISCO
7 RAMIREZ, THOMAS LEON, and FRANCISCO VARGAS and DOES 5 and 6 to significantly
8 harm Plaintiff JEARHAMEL FANARO.
9

10 122. As a direct and proximate result of Defendants OMAR DELEON, ANTONIO
11 ROSAS and DOES 3 to 4's actions and inactions, Plaintiff JEARHAMEL FANARO suffered
12 injuries entitling him to receive compensatory and punitive damages against Defendants OMAR
13 DELEON, ANTONIO ROSAS and DOES 3 to 4.
14

15 WHEREFORE, Plaintiff JEARHAMEL FANARO prays for relief as hereunder appears.
16

ELEVENTH CLAIM

Conspiracy

18 123. The Eleventh Claim is asserted by Plaintiff JEARHAMEL FANARO against
19 Defendants FRANCISCO RAMIREZ, THOMAS LEON, FRANCISCO VARGAS, OMAR
20 DELEON, ANTONIO ROSAS and DOES 3 to 4.
21

22 124. Plaintiff JEARHAMEL FANARO re-alleges and incorporates the allegations of
23 the preceding paragraphs 1 to 68, to the extent relevant, as if fully set forth in this claim.
24

25 125. Plaintiff JEARHAMEL FANARO was severely injured during an attack by
26 Defendants FRANCISCO RAMIREZ, THOMAS LEON, FRANCISCO VARGAS, and DOES
27 5 and 6, and Defendants OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4 were aware
28 that Defendants FRANCISCO RAMIREZ, THOMAS LEON, FRANCISCO VARGAS, and
DOES 5 and 6 planned to attack Plaintiff JEARHAMEL FANARO.
29

1 126. Defendants OMAR DELEON, ANTONIO ROSAS had a tacit and/or explicit
2 agreement with Defendants FRANCISCO RAMIREZ, THOMAS LEON, FRANCISCO
3 VARGAS, and DOES 5 to 6 to harm Plaintiff JEARHAMEL FANARO.
4

5 127. The tacit and explicit agreement between Defendants OMAR DELEON and
6 ANTONIO ROSAS and Defendants FRANCISCO RAMIREZ, THOMAS LEON,
7 FRANCISCO VARGAS, and DOES 5 to 6 required Defendants OMAR DELEON and
8 ANTONIO ROSAS to act as a lookout and make certain no one interrupted the attack on
9 Plaintiff JEARHAMEL FANARO.
10

11 128. As a direct and proximate result of Defendants CONTRA COSTA COUNTY
12 SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and
13 DOES 3 to 4's actions and inactions, Plaintiff JEARHAMEL FANARO suffered injuries
14 entitling him to receive compensatory and punitive damages against Defendants CONTRA
15 COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON,
16 ANTONIO ROSAS and DOES 3 to 4.
17

18 WHEREFORE, Plaintiff JEARHAMEL FANARO prays for relief as hereunder appears.
19

TWELFTH CLAIM

Aiding and Abetting

20 129. The Twelfth Claim is asserted by Plaintiff JEARHAMEL FANARO against
21 Defendants OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4.
22

23 130. Plaintiff JEARHAMEL FANARO re-alleges and incorporates the allegations of
24 the preceding paragraphs 1 to 68, to the extent relevant, as if fully set forth in this claim.
25

26 131. Plaintiff JEARHAMEL FANARO was harmed by Defendants FRANCISCO
27 RAMIREZ, THOMAS LEON, FRANCISCO VARGAS, and DOES 5 and 6.
28

132. Defendants OMAR DELEON and ANTONIO ROSAS knew the battery was happening and they acted as a look out to ensure the attack was not interrupted.

133. Defendants OMAR DELEON and ANTONIO ROSAS actions to ensure the
battery was not interrupted substantially caused the harm done to Plaintiff JEARHAMEL
FANARO.

134. As a direct and proximate result of Defendants OMAR DELEON and ANTONIO ROSAS's action and inactions, Plaintiff JEARHAMEL FANARO suffered injuries entitling him to receive compensatory and punitive damages against Defendants OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4.

WHEREFORE, Plaintiff JEARNHAMEL FANARO prays for relief as hereunder appears.

THIRTEENTH CLAIM

Battery

135. The Thirteenth Claim is asserted by Plaintiff JEARNHAMEL FANARO against Defendants FRANCISCO RAMIREZ, THOMAS LEON, FRANCISCO VARGAS, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 6.

136. Plaintiff JEARNHAMEL FANARO re-alleges and incorporates the allegations of the preceding paragraphs 1 to 68, to the extent relevant, as if fully set forth in this claim.

137. Defendants FRANCISCO RAMIREZ, THOMAS LEON, FRANCISCO VARGAS, and DOES 5 and 6 intentionally touched Plaintiff JEARNHAMEL FANARO and that touching constituted unreasonable force and he did not consent to that touching.

138. Defendants FRANCISCO RAMIREZ, THOMAS LEON, FRANCISCO VARGAS, and DOES 5 and 6's touching substantially harmed Plaintiff JEARNHAMEL FANARO.

1 139. Defendants OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4 in their
2 official duties conspired to allow Defendants FRANCISCO RAMIREZ, THOMAS LEON,
3 FRANCISCO VARGAS, and DOES 5 and 6 to batter Plaintiff JEARNHAMEL FANARO.
4

5 140. As a direct and proximate result of Defendants FRANCISCO RAMIREZ,
6 THOMAS LEON, FRANCISCO VARGAS, OMAR DELEON, ANTONIO ROSAS and DOES
7 3 to 4's actions and inactions, Plaintiff JEARNHAMEL FANARO suffered injuries entitling him
8 to receive compensatory and punitive damages against Defendants FRANCISCO RAMIREZ,
9 THOMAS LEON, FRANCISCO VARGAS, OMAR DELEON, ANTONIO ROSAS and DOES
10 3 to 4.

11 WHEREFORE, Plaintiff JEARNHAMEL FANARO prays for relief as hereunder appears.
12

13

14 **FOURTEENTH CLAIM**

15 **Assault**

16 141. The Fourteenth Claim is asserted by Plaintiff JEARNHAMEL FANARO against
17 Defendants FRANCISCO RAMIREZ, THOMAS LEON, FRANCISCO VARGAS, OMAR
18 DELEON, ANTONIO ROSAS and DOES 3 to 4.

20 142. Plaintiff JEARNHAMEL FANARO re-alleges and incorporates the allegations of
21 the preceding paragraphs 1 to 68, to the extent relevant, as if fully set forth in this claim.

23 143. Plaintiff JEARNHAMEL FANARO reasonably believed Defendants
24 FRANCISCO RAMIREZ, THOMAS LEON, FRANCISCO VARGAS, and DOES 5 to 6
25 intended to cause harm by touching him.

26 144. Defendants FRANCISCO RAMIREZ, THOMAS LEON, FRANCISCO
27 VARGAS, and DOES 5 to 6 reasonably appeared to intend to carry out the threat.
28

1 145. Plaintiff JEARTHAMEL FANARO did not consent and was harmed as a result of
2 Defendants FRANCISCO RAMIREZ, THOMAS LEON, FRANCISCO VARGAS, and DOES
3 5 and 6's conduct.

4 146. Defendants OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4 in their official
5 duties knowingly allowed Defendants FRANCISCO RAMIREZ, THOMAS LEON,
6 FRANCISCO VARGAS, and DOES 5 and 6 to assault Plaintiff JEARTHAMEL FANARO.

7 147. As a direct and proximate result of Defendants FRANCISCO RAMIREZ,
8 THOMAS LEON, FRANCISCO VARGAS, OMAR DELEON, ANTONIO ROSAS and DOES
9 3 to 4's actions and inactions, Plaintiff JEARTHAMEL FANARO suffered injuries entitling him
10 to receive compensatory and punitive damages against Defendants FRANCISCO RAMIREZ,
11 THOMAS LEON, FRANCISCO VARGAS, OMAR DELEON, ANTONIO ROSAS and DOES
12 3 to 4.

13 WHEREFORE, Plaintiff JEARTHAMEL FANARO prays for relief as hereunder appears

14 **FIFTEENTH CLAIM**

15 **Intentional Infliction of Emotional Distress**

16 148. The Fifteenth Claim is asserted by Plaintiff JEARTHAMEL FANARO against
17 Defendants FRANCISCO RAMIREZ, THOMAS LEON, and FRANCISCO VARGAS, OMAR
18 DELEON, ANTONIO ROSAS and DOES 3 to 6.

19 149. Plaintiff JEARTHAMEL FANARO re-alleges and incorporates the allegations of
20 the preceding paragraphs 1 to 68, to the extent relevant, as if fully set forth in this claim.

21 150. Defendants FRANCISCO RAMIREZ, THOMAS LEON, and FRANCISCO
22 VARGAS and DOES 5 to 6's attack on Plaintiff JEARTHAMEL FANARO was outrageous and
23 intended to cause Plaintiff JEARTHAMEL FANARO emotional distress.

151. Defendants OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4's collusion with Defendants FRANCISCO RAMIREZ, THOMAS LEON, FRANCISCO VARGAS, and DOES 5 to 6 was outrageous and intended to cause Plaintiff JEARNHAMEL FANARO emotional distress.

152. Defendants FRANCISCO RAMIREZ, THOMAS LEON, FRANCISCO VARGAS, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 6 conduct was the substantial cause in Plaintiff JEARNEL FANARO'S severe emotional distress.

153. As a direct and proximate result of Defendants FRANCISCO RAMIREZ, THOMAS LEON, FRANCISCO VARGAS, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 6's actions and inactions, Plaintiff JEARHAMEL FANARO suffered injuries entitling him to receive compensatory and punitive damages against Defendants FRANCISCO RAMIREZ, THOMAS LEON, and FRANCISCO VARGAS, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4.

WHEREFORE, Plaintiff JEARHAMEL FANARO prays for relief as hereunder appears.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff JEARNHAMEL FANARO, on behalf of himself seeks Judgment as follows:

1. For an award of compensatory, general, and special damages against Defendants
COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID
O. LIVINGSTON, FRANCISCO RAMIREZ, THOMAS LEON, FRANCISCO VARGAS,
OMAR DE LEON, ANTONIO ROSAS and DOES 3 to 50, according to proof at trial;

2. For an award of exemplary/punitive damages against Defendants DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS, DOES 3 to 4, and DOES 7 to 50 in an

1 amount sufficient to deter and to make an example of them, because of their actions and/or
2 inactions, as alleged were motivated by evil motive or intent, involved reckless or callous
3 indifference to federally protected rights, were wantonly or oppressively done, or constituted
4 oppression and/or malice resulting in great harm.
5

6 3. For an award of punitive damages against Defendants FRANCISCO RAMIREZ,
7 THOMAS LEON, FRANCISCO VARGAS, and DOES 5-6 in an amount sufficient to deter and
8 to make an example of them, because of their actions as alleged constituted oppression and/or
9 malicious conduct.
10

11 4. For an award of statutory penalties, pursuant to Cal. Civ. Code § 52.1 and any
12 other statute as may be applicable.
13

14 5. For an award of declaratory or injunctive relief, enjoining and restraining
15 Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S
16 OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4
17 from continuing or repeating the policies, customs, or practices complained to herein;
18

19 6. For an award of reasonable attorney's fees and costs, pursuant to 42 U.S.C. §
20 1988, Cal. Civ. Code § 52.1, Cal. Code Civ. Proc. § 1021.5, and any other statute as may be
21 applicable; and
22

23 7. For an award of any other further relief, as the Court deems fair, just, and
24 equitable.
25

26 Dated October 8, 2019

27 Respectfully Submitted,
28


26 Qiana Washington
27 Attorney for Plaintiff
28 JEARHAMEL FANARO

JURY TRIAL DEMAND

A JURY TRIAL IS DEMANDED by Plaintiff JEARNHAMEL FANARO, on behalf of himself.

Dated October 8, 2019

Respectfully Submitted,

Mr. MWT

Qiana Washington
Attorney for Plaintiff
JEARHAMEL FANARO